THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 1383 of 2006

Trilok Singh S/O Himmat Singh, R/O Pradhan, Gram Post Khetal Sanda Mustajar, Vikas Khand Khatima, District Udham Singh Nagar.

... **Petitioner.**

Versus

1. The District Magistrate Udham Singh Nagar.
2. The District Panchayat Raj Adhikari Udham Singh Nagar.
3. Keshar Singh, Member of Gram Panchayat Khetal Sanda Mustajar, R/O Village Khetal Sanda Mustajar Khatima Udham Singh Nagar.

... **Respondents.**

Sri S.C.Bhatt, Adv., learned counsel for the petitioner.
Sri Nand Prasad, learned Standing Counsel for the respondent no.1 & 2.

Dated September 20, 2006.

Hon'ble B.S.Verma, J.

Heard learned counsel for the petitioner Sri S.C.Bhatt as well as learned Standing Counsel, Sri Nand Prasad for the State and perused the material on record.

Learned counsel for both the parties have agreed that the writ petition may be disposed of finally today.

The petitioner has filed the present writ petition for issue a writ order in the nature of certiorari to quash the impugned order dated 25-8-2006 passed by the District Magistrate Udham Singh Nagar which was communicated to the petitioner on 30-8-2006 (Annexure Nos. 1 & 5 to the writ petition). By the order dated 25-8-2006, the District Magistrate had seized the financial and administrative powers of the petitioner of the office of Pradhan till he was exonerated from the guilt in the final enquiry.

Learned counsel for the petitioner submitted that due to ailment, the petitioner was admitted in Poliganj Hospital Majhola, district Pilibhit from 11th July 2006 and he was discharged from that hospital only on 25.7.2006, as he was referred for better treatment to another hospital, namely, Kumaon Regimental Centre, Army Hospital, Ranikhet, where he was hospitalized on 29-7-2006 and was finally discharged on 31-8-2006.

From a perusal of the impugned order, it comes out that the show cause notice was issued to the petitioner on July 04, 2006 by the District Magistrate Udham Singh Nagar, which was served on the petitioner on 10-7-2006 and 15 days time was granted to him to file his reply against the same. The fifteen days time expired on 25.7.2006 and it is evident from Annexure No.4 that the petitioner was in the Hospital at Majhola on 25-7-2006. He was again admitted in the KRC Army Hospital Ranikhet on 29-7-2006. therefore, the petitioner could not seek further time for filing the reply due to his ailment. The respondent no.1-District Magistrate had proceeded with the matter ex-parte against the Pradhan without hearing him on the ground that the petitioner did not seek further time and no explanation has come forward. Indisputably, when the impugned order dated 25-8-2006 was passed by the District Magistrate concerned, the petitioner was hospitalized in Military Hospital Ranikhet.

In the facts and circumstances of the case, it would be proper in the interest of justice that before seizing the financial and administrative power of the petitioner as Pradhan, opportunity of hearing be afforded to him.

It will be in the fitness of things and to serve the ends of justice that the impugned order passed by the District Magistrate Udham Singh Nagar dated 25-8-2006 be kept in abeyance till the petitioner is given opportunity of hearing and to file his reply. The petitioner may file his reply/objection against the show cause notice

within a period of fifteen days from today and the District Magistrate after hearing the petitioner shall decide the matter again expeditiously. Till then, the impugned order dated 25-8-2006 (Annexure No.1) shall remain in abeyance.

With the above direction, the writ petition is disposed of finally.

Copy of this order be issued to the learned counsel for the petitioner today on payment of usual charges.

(B.S.Verma, J.)

20-09-2006
RCP